

SDMS Document ID



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Please accept these comments to the work plan proposed for the cleanup of "Riverside Park", Operable Unit #4 of the Libby Asbestos site.

My first comment is that this site is actually part of Operable Unit #1 and was supposed to have been cleaned by WR Grace (Grace) under Unilateral Administrative Order (UAO). The UAO specifically stated in Sec. 1.2.4 that Operable Unit #1 was defined as a section of land with its Northern boundary being the Kootenai River.

The reason this site was designated Operable Unit #1 is that it presents the highest threat to public health in Libby because of its location adjacent to the population center and the presence of great quantities of high level contaminant.

Grace was not required to meet the conditions of the UAO and I believe the political dynamics responsible for that failure remain in place today and threaten the success of this present venture. These dynamics center around the \$1,000,000 worth of improvements Grace paid for on property owned by the Mayor of Libby in a deal struck during the cleanup of Operable Unit #1 which put the Mayor in business with a building materials retail operation called Millwork West. Millwork West has since become a major supplier of materials for EPA contractors with cost plus contracts and no requirement for obtaining bids for materials.

EPA OSC Paul Peronard, along with a host of local politicians, signed a letter of support for this corruption and has done much to minimize the complications it created. This latest incident could have been avoided. When a City loader operator took a buried, concentrated pocket of vermiculite and spread it over three acres of riverbank it created the worst single point exposure Libby has suffered since the closure of the mine. This loader operator told his Supervisor there was vermiculite present at the beginning of the excavation and his Supervisor ordered him to continue the excavation and bury the vermiculite. The Supervisor was trying to protect his Mayor from the legal problems that would arise from admitting that Grace was not required to remove all of the contamination under the UAO. I see EPA protecting the Mayor in the same way in certain elements of this work plan.

The most glaring omission is found in Figure 3-1 where it clearly shows EPA has no intention of cleaning the riverbank downstream and to the west of the picnic area. This area was identified in MT DEQ violation notice CVID # 7273 as the spot where City crews tried to hide the contamination by dumping it over the bank and covering it with clean dirt. MT DEQ noted violations of the Montana Water Quality Act and the Solid Waste Management Act in this violation notice. The violation notice mentioned that Jim Christianson indicated EPA would remove the vermiculite and reclaim the riverbank. The citation noted three other requirements to bring the site into compliance.

1 Install and maintain Best Management practices (BMPs) such as silt fence and/or erosion control fabric in the disturbed areas along the river.

2 Seed the area.

3 Waste, such as the asphalt in the fill material west of the boat ramp, must be removed.

Failure to comply will bring enforcement action from the State. It is also necessary to remove this 6 foot lens of soil before EPA can determine if the original riverbank was contaminated with vermiculite. EPA may be required to remove uncontaminated material that is the responsibility of the City. Under Superfund regulations, this may be illegal. The City Attorney is caught in the middle of this situation. Can he truly represent the best interests of the City when he is making money off of the EPA lab that is set up on his property? Mr. Spencer sent a hardball letter to Paul Peronard on May 30, 2001 requesting restoration of Operable Unit #1 and the return of Millwork West to City property as required under the work plan filed for the UAO. Since EMSL, the EPA lab, started renting from him we have heard no more about the restoration issue. He has not pursued legal action against Grace for failing to comply with the UAO.

MT DEQ has good reason not to trust the City. A few years ago City Supervisor Dan Thede, in direct violation of City policy, was using a City backhoe to perform an afterhours project for a third party. He tipped the hoe over and it bled oil and fuel out of every orifice into the ground. His initial response to the State in violation notice CVID #4581 proved to be untrue, a total fabrication. He had just told them what they wanted to hear. Mr. Thede is EPA's prime contact for the work required under this order and he answers directly to the Mayor who is the secondary contact. Both have shown a willingness to put personal issues ahead of the best interests of the people of Libby.

EPA continues to cover up the actions that created this mess in Section 2.3.1.2 when they say that "restoration activities may have also 'inadvertently' placed contaminated soils along the riverbank". This was no accident. The operator told his Supervisor about the contamination and was ORDERED to bury it along the riverbank and in the river. This would have been a negligible incident if he hadn't been

forced to continue digging after identifying the contamination. Mr. Thede, being the Supervisor who instructed his subordinate to hide the vermiculite encountered at the boat ramp, has a conflict of interest in this cleanup. He is directly responsible for the exposures suffered by his employee and everyone who uses the park. He has much to gain by minimizing this disaster. He should have no role in the cleanup that would permit him to avoid responsibility for his actions in creating this mess. If I had my way, he would be paying for the cleanup.

The Mayor has a conflict of interest as exposed by Councilman George Bauer on October 9, 2002 in a recorded council meeting. When I asked for the final restoration plan on Operable Unit #1, Councilman Bauer stated that the Mayor couldn't talk about that site since he had a conflict of interest. The Mayor cannot legally be publicly involved in decisions concerning Operable Unit #1 (or #4), EPA, or Millwork West. Still, according to Jim Christianson at the last CAG meeting, EPA is using him as a contact to make decisions on this site, privately, secretly, without public scrutiny. At that same CAG meeting, Mr. Christianson refused to answer certain questions about this site and the Mayor's relationship to it, citing the OIG investigation as his reason. The Mayor has already seen to it that materials used for cover and BMPs at this site were purchased from Millwork West. There will be tons of materials purchased for this project to meet the BMP requirements for bank stabilization, for fencing, recreation and park items. The Mayor should not be in a position to profit from this tragedy by influencing the purchase of those materials from his renter, Millwork West. It is my contention that the Mayor's relationship with Millwork West and Grace was the direct cause of this release of hazardous material and the attending threat to human health that it poses. Without influence from the Mayor, Grace would have been forced to comply with the UAO and this site would have been cleaned. Beyond that, the actions of the Supervisor in ordering the contamination to be buried, were designed to protect the Mayor. I further believe that EPA should restrict their interaction with the Mayor until after the Office of Inspector General investigation is complete. In their haste to put Millwork West in business with the Mayor, it seems EPA installed an illegal septic and storm sewer system on the Mayor's property. If EPA is found to have deliberately taken liberties with our water supply, that is reason enough to separate these two from doing business that will affect the health of the citizens of Libby. rect-14
DEQ

I know that there is a lot of vermiculite left on this site from my experience as an earthmover. I planted some of the trees in the park, and encountered vermiculite. I dug a cable line through the park. We encountered vermiculite and backfilled the ditch with the contamination. I told Paul Peronard about these incidents in July of 2000. He never took any action to protect the people of Libby. It should be obvious to anyone that the bump jutting out into the river which comprises the picnic area is an unnatural fill. This fill material most likely was placed by Grace and will be found to contain high levels of contaminant.

In the spring of 1999, the pavement of the access road to Highway 37 started breaking up. It got so bad that my dump trucks got stuck trying to pull up the hill. It wasn't horribly soft, just slick. That is because that access road was built by Grace and is basically a huge pile of vermiculite. The vermiculite was boiling up through the pavement. This structure has not been tested and is totally avoided in the work plan. The north side of this ramp is in the park. → Roadside/north side.

I performed a petroleum release remediation for Grace at this site. We dug up around 800 cubic yards of bunker oil soaked dirt and hauled it to the mine. When it came time to replace that material and fill the ditches, we scraped the topping off of the area around the buildings. This was some pretty contaminated stuff, probably the worst on site since it was the surface used to stockpile ore historically. I remember three loads that went in the ditch that were raw ore, the stuff that kids used to jump in. Those ditches were not excavated when Grace performed the cleanup of Operable Unit #1. That is when I knew that Grace was going to get away with all they have done in Libby, with the blessing of the City fathers, the EPA, and a host of local politicians.

If you don't address the concerns delineated in this letter, we will revisit this site for the next 50 years. The exposures we are suffering today will continue. Our children and grandchildren will continue to play in the "black shiny death" that they find at this park.

EPA has failed to clean this site up in the two efforts previous to this one. The reason is obvious to me. Grace is spending a lot of money buying politicians and bureaucrats so that they can escape their responsibilities in Libby. Please don't let history repeat itself.

Thank you for your concern.

Sincerely, DC Orr

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Field Fol-s to DC

Follow up memo